

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

EKO BRANDS, LLC,

Plaintiff,

V.

ADRIAN RIVERA MAYNEZ
ENTERPRISES, INC.; and
ADRIAN RIVERA, an individual,

Defendants.

Civil Action No. 17-cv-894TSZ

UNOPPOSED MOTION AND ORDER TO
SEAL DOCUMENTS

Pursuant to Local Civil Rule (“LCR”) 5(g), Plaintiff Eko Brands, LLC (“Eko”) is filing under seal certain documents supporting its opposition to Defendants Adrian Rivera Maynez Enterprises, Inc. and Adrian Rivera (together “ARM”)’s motion for summary judgment (Dkt. 33). Certain Eko documents contain highly sensitive and nonpublic sales, cost, expense, profit, and projection data pertaining to Eko. (Legler Declaration Regarding Unopposed Motion to Seal “Legler” ¶ 2) Further, one such Eko document contains potentially sensitive information concerning market shares of not only Eko, but of other competitors as well. (Legler ¶ 2) Eko also has filed under seal certain documents that ARM has requested to remain under seal as well. (See Lowe Declaration Regarding Unopposed Motion to Seal “Lowe” ¶ 2) In accordance with LCR 5(g)(3)(A), Eko’s counsel has conferred with ARM’s counsel concerning the filing of the

UNOPPOSED MOTION AND ORDER TO SEAL
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ESUP-6-0008P17 UnOpp MotSeal.docx

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1 confidential exhibits under seal, and ARM's counsel has agreed to not oppose Eko's request to
2 retain Eko's documents under seal. (See Lowe ¶¶ 3-4)

3 The Western District of Washington permits retaining under seal nonpublic information
4 regarding litigants' sales, cost, profit, and market share data. For example, In *Clearly Food &*
5 *Beverage Co. v. Top Shelf Beverages, Inc.*, the court found good cause to seal confidential business
6 information such as "confidential financial projections, marketing strategies, and business plans
7 all of which could be used against [the party] by competitors." 102 F. Supp. 3d 1154, 1178 (W.D.
8 Wash. 2015). Also, the court in *BitTitan, Inc. v. Skykick, Inc.* granted the parties' motions to seal
9 proprietary business information. 2015 U.S. Dist. LEXIS 181126 (W.D. Wash. Aug. 14, 2015)
10 (holding that if released to the public, the information "has the potential to harm the parties'
11 positions in the industry."); *see also BitTitan, Inc. v. SkyKick, Inc.*, 2015 U.S. Dist. LEXIS 180882
12 (W.D. Wash. July 29, 2015).

13 The same result should occur here. While there is a preference for open disclosure in the
14 courts, if released to the public, Eko's documents regarding its highly sensitive and nonpublic
15 sales, cost, expense, profit, and projection data would no doubt harm Eko's position in the market.
16 (Legler ¶ 2) Further, Eko's non-redacted Nielson report shows market share of not only Eko, but
17 of its competitors as well. ARM has similarly claimed that certain of its documents contain
18 confidential business information, and has requested that they likewise be filed under seal,
19 specifically Exhibits G and J to Lowe's Declaration in Support of Eko's Opposition to ARM's
20 Motion for Summary Judgment ("Lowe MSJ"). Eko has agreed to seek leave to file these under
21 seal out of an abundance of caution. (Lowe ¶ 4)

22 Eko therefore respectfully requests that the following documents be filed and remain under
23 seal:

24

- 25 • Exhibit F to Legler Declaration in Support of Eko's Opposition to ARM's Motion
for Summary Judgment ("Legler MSJ") (Eko Marketing Summary)
- 26 • Exhibit M to Legler MSJ (Non-Redacted Nielson report)

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- Exhibit N to Legler MSJ (Eko Sales Summary)

2

- Exhibit O to Legler MSJ (Costing Projection)

3

- Exhibit G to Lowe MSJ (ARM emails)

4

- Exhibit J to Lowe MSJ (ARM sales, cost, and profit data)

5 RESPECTFULLY SUBMITTED September 14, 2018

6 s/ David A. Lowe, WSBA No. 24,453

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ORDER

Pursuant to Local Civil Rule 5(g), the parties requested that the Court seal certain nonpublic confidential documents Eko has relied upon in its opposition to ARM's motion for summary judgment. Upon consideration, and good cause having been shown, this Court hereby directs the clerk to retain the requested documents under seal.

IT IS SO ORDERED.

DATED this 11th day of October, 2018.

Thomas S. Balle

Thomas S. Zilly
United States District Judge

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